REMARKS/ARGUMENTS

Claims 1-8 and 11-51 are pending in the present application. Claims 1, 23, 28, 29, 46 and 47 have been amended. No claims have been added and no claims have been canceled. Applicants have carefully considered the cited art and the Examiner's comments and believe the claims currently in the case patentably distinguish over the cited art and are allowable in their present form. Reconsideration of the rejection is, accordingly, respectfully requested in view of the above amendments and the following comments.

I. 35 U.S.C. § 103, Obviousness: Claims 1-2, 23-24, 28, and 47-48

The Examiner has rejected claims 1-2, 23-24, 28, and 47-48 under 35 U.S.C. § 103(a) as being unpatentable over Papadopoulos, U.S. Patent No. 6,099,320, in view of Thomas, U.S. Patent No. 5,618,182. This rejection is respectfully traversed.

In rejecting the claims, the Examiner states:

> 1. [Claims 1,23,28,47]: Regarding Claims 1,23, 28, and 47, Papadopoulos discloses a bus system; a communication unit connected to the bus system, a storage device connected to the bus system. See FIG. 15. Papadopoulos discloses identifying presentation of the test questions on the data processing system. See Col.6: 6-12. Papadopoulos discloses generating an alert (i.e., changing from yellow to red) after the test question timing data exceeds a threshold (i.e., expires), wherein the alert apprises a test taker that the elapsed time is excessive for the test question. See Col.6: 15-22.
>
> Papadopoulos does not disclose expressly responsive to the presentation of the test questions on the data processing system, monitoring test question timing data in which the test question timing data represents an elapsed time since an answered question from the test questions has been presented, wherein the elapsed time is an amount of time in attempting to answer a test question. However, Thomas teaches such in Col.4: 1-61:
>
> > Once the question and its answer choices are displayed 24, a question timer is started 26. The question timer operates to keep track of the amount of time elapsed from the time the question was displayed until the user selects an answer choice. Due to the fact that the MBE is a severely time limited exam, keeping track of the users time performance for each question is very important. As the question timer monitors the elapsed time, a visual indication of the elapsed time is displayed 28. For example, a digital stopwatch, a bar graph, or some other graphical technique could be displayed 28 on the display screen 6 to provide a visual indication of the elapsed time to the user. By displaying 28 a visual indication of the elapsed time, the user becomes sensitized to the amount of time he/she spends to answer questions and how he/she is doing time-wise with respect to a predetermined duration of time. Alternatively, an audio signal could be used with reduced effectiveness. The visual indication of the elapsed time is far superior to an audio signal because the user is able to see the elapsed time as he/she attempts to determine the correct answer choice for the question.

> Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to incorporate the aforementioned limitation into the method and system of Papadopoulos, in light of the teaching of Thomas, in order to keep track of the users time performance for each question.

Office Action dated September 5, 2006, pages 2-3.

> Claim 1 as amended herein is as follows:
>
> A computer-implemented method for monitoring responses to test questions presented in a data processing system, the method comprising the computer implemented steps of:
>
> identifying presentation of the test questions on the data processing system;
>
> responsive to the presentation of the test questions on the data processing system, monitoring test question timing data in which the test question timing data represents an elapsed time since an answered question from the test questions has been presented, wherein the elapsed time is an amount of time in attempting to answer a test question; and
>
> generating an alert after the test question timing data exceeds a threshold, wherein the alert apprises a test taker that the elapsed time is excessive for the test question, and wherein the alert is generated based on an alert schedule for the test question.

Applicants submit that neither Papadopoulos nor Thomas nor their combination discloses or suggests "generating an alert after the test question timing data exceeds a threshold, wherein the alert apprises a test taker that the elapsed time is excessive for the test question, and wherein the alert is generated based on an alert profile for the test question" as now recited in claim 1.

Initially, Applicants submit that neither reference discloses or suggests "generating an alert after the test question timing data exceeds a threshold, wherein the alert apprises a test taker that the elapsed time is excessive for the test question". The Examiner refers to Col. 6, lines 15-22 of Papadopoulos as disclosing "generating an alert (i.e., changing from yellow to red) after the test question timing data exceeds a threshold (i.e., expires), wherein the alert apprises a test taker that the elapsed time is excessive for the test question". Applicants respectfully disagree.

Col. 6, lines 15-22 of Papadopoulos is as follows:

> After a question is posed, both an analog and a digital timer are displayed, showing the time remaining for answering the question and changing from green to yellow to red as the time expires. If the student does not pass the test within the allowed time, the screen containing the material that is being reviewed is redisplayed and the student has another opportunity to learn the information.

This is not a disclosure of "generating an alert after the test question timing data exceeds a threshold, wherein the alert apprises a test taker that the elapsed time is excessive for the test question" as recited in claim 1. In Papadopoulos, a timer simply counts down the time remaining to answer a question. Although the reference discloses that a color can change as time expires, Papadopoulos does not disclose, and, in fact, teaches away from "generating an alert after the test question timing data exceeds a threshold, wherein the alert apprises a test taker that the elapsed

time is excessive for the test question" as required by claim 1. In Papadopoulos, a question must be answered in a given period of time. The present invention, on the other hand, is more directed to enabling a test taker to pace himself when answering a question while allowing the question to be answered.

Thomas also does not disclose or suggest "generating an alert after the test question timing data exceeds a threshold, wherein the alert apprises a test taker that the elapsed time is excessive for the test question". Thomas simply provides an indication of time that has elapsed since a question was presented. No alert of any kind is generated in Thomas and, certainly, no alert is generated to indicate that "test question timing data exceeds a threshold, wherein the alert apprises a test taker that the elapsed time is excessive for the test question" as recited in claim 1.

Papadopoulos and Thomas also do not disclose or suggest "wherein the alert is generated based on an alert schedule for the test question" as now recited in claim 1, and claim 1 patentably distinguishes over the references for this reason as well.

In general, neither Papadopoulos nor Thomas nor their combination discloses or suggests "generating an alert after the test question timing data exceeds a threshold, wherein the alert apprises a test taker that the elapsed time is excessive for the test question, and wherein the alert is generated based on an alert schedule for the test question" as recited in claim 1, and claim 1 patentably distinguishes over the references in its present form.

Independent claims 23, 28 and 47 have been amended in a manner similar to claim 1, and patentably distinguish over the references in their present form for similar reasons as discussed above with respect to claim 1. Claims 2, 24 and 48 depend from and further restrict claims 1, 23 and 47, respectively, and are also patentable over Papadopoulos in view of Thomas, at least by virtue of their dependency.

Therefore, the rejection of claims 1-2, 23-24, 28, and 47-48 under 35 U.S.C. § 103(a) has been overcome.

II. 35 U.S.C. § 103, Obviousness: Claims 3, 6, 8, 11, 12, 14, 15-21, 25-26, 29, 31-35, 37-44, 46, and 51

The Examiner has rejected claims 3, 6, 8, 11, 12, 14, 15-21, 25-26, 29, 31-35, 37-44, 46, and 51 under 35 U.S.C. § 103(a) as being unpatentable over Papadopoulos in view of Thomas as applied to claims 1 and 24 above, and further in view of Sugimoto, U.S. Patent No. 6,755,661. This rejection is respectfully traversed.

With respect to claims 3 and 25, the Examiner cites Sugimoto as disclosing generating an alert using an applet. Claims 3 and 25, however, depend from and further restrict claims 1 and 24, respectively.

Sugimoto does not supply the deficiencies in Papadopoulos in view of Thomas as described above, and claims 3 and 25 should be allowable in their present form, at least by virtue of their dependency.

Independent claim 6 is as follows:

> 6. A computer-implemented method of monitoring a test question response time, comprising the steps of:
>
> administering a test to a remotely located user of a client device;
>
> receiving test question timing data from the client device, the test question timing data representing an elapsed time used by the remotely located user in attempting to answer a test question from a plurality of test questions that are to be provided to the client device during administration of the test; and
>
> outputting the test question timing data to a proctor device such that the proctor device may monitor the elapsed time in attempting to answer the test question for the remotely located user;
>
> wherein said remotely located user can send an instant message to and receive an instant message from said proctor device.

In rejecting claim 6, the Examiner asserts that Papadopoulos discloses wherein the user can send and receive an instant message, and cites Sugimoto as disclosing administering a test to a remotely located user.

Applicants respectfully disagree that Papadopoulos discloses sending and receiving instant messages. The Examiner refers to Col. 6, lines 28-32 of Papadopoulos as disclosing this feature. Col. 6, lines 28-32 of Papadopoulos is as follows:

> If the student answers any of the questions incorrectly on the section test, the screen re-displays the page at which the information required to answer the question is introduced.

The above recitation says nothing about either sending an instant message or receiving an instant message. The recitation only states that a screen can re-display a page. Neither Papadopoulos nor Thomas nor Sugimoto discloses instant messaging. As is known to those skilled in the art, instant messaging is a type of communications service that enables one to create a kind of private chat room with another individual in order to communicate in real time over the Internet. It is analogous to a telephone conversation but uses text-based communication. The references do not disclose instant messaging, even "given its broadest reasonable interpretation". Only the present application contains any such disclosure. Therefore, independent claim 6, as well as independent claims 29, 46 and 51, are not obvious over Papadopoulos in view of Thomas and Sugimoto and patentably distinguish thereover in their present form.

Claims 8, 11, 12, 14, 15-21, 25-26, 31-35, 37-44 and 46 depend from and further restrict one of claims 6 and 29 and patentably distinguish over the references at least by virtue of their dependency. Many of these claims, however, recite additional features that are neither disclosed in nor suggested by

the cited art. For example, claims 17-21 depend from claim 6 and each claim recites subject matter that is not disclosed in any of the cited references. For example, the references do not disclose or suggest "wherein outputting the test question timing data to a proctor device is performed in response to determining that evidence of greater than expected response time to the test question is present" as recited in claim 17; or "wherein monitoring the test question timing data for evidence of greater than expected response time to the test question includes comparing previously received test question timing data to currently received test question timing data to determine if a change in the test question timing data indicates evidence of greater than expected response time to the test question" as recited in claim 18. The references do not discuss monitoring a test question based on any previously received test data or other evidence.

The references also do not disclose "generating an alert profile for the remotely located user for a particular test based on at least one of a data profile associated with the remotely located user, an examination question timing database, and a degree of difficulty associated with a question on the test" as recited in claim 19, nor the subject matter of claims 20-21 dependent thereon. The Examiner refers generally to Col. 6, lines 15-22, reproduced above, as disclosing the subject matter of these claims. The above recitation does not in any way, however, disclose using previously received data to output test question timing data, or any mechanism for establishing an alert profile. Only the present application contains such disclosure. Claims 17-21, as well as claims 40-44 which depend from claim 29, patentably distinguish over the references in their own right as well as by virtue of their dependency.

Therefore, the rejection of claims 3, 6, 8, 11, 12, 14, 15-21, 25-26, 29, 31-35, 37-44, 46, and 51 under 35 U.S.C. § 103(a) has been overcome.

III. 35 U.S.C. § 103, Obviousness: Claims 4, 26, and 49

The Examiner has rejected claims 4, 26, and 49 under 35 U.S.C. § 103(a) as being unpatentable over Papadopoulos in view of Thomas as applied to claims 1, 23, and 47 above and further in view of Walker et al., U.S. Patent No. 6,093,026 (hereinafter "Walker"). This rejection is respectfully traversed.

Walker is cited as teaching the concept of billing a client for monitoring the presentation of test questions. Claims 4, 26 and 49, however, depend from and further restrict claims 1, 23 and 47, respectively. Walker does not supply the deficiencies in Papadopoulos and Thomas as described above, and claims 4, 26 and 49 patentably distinguish over the cited art in their present form at least by virtue of their dependency.

Therefore, the rejection of claims 4, 26, and 49 under 35 U.S.C. § 103(a) has been overcome.

IV. 35 U.S.C. § 103, Obviousness: Claims 5, 27, and 50

The Examiner has rejected claims 5, 27, and 50 under 35 U.S.C. § 103(a) as being unpatentable over Papadopoulos in view of Thomas. This rejection is respectfully traversed.

Claim 5 is as follows:

> 5. The computer-implemented method of claim 1, wherein the test questions are part of a test and further comprising:
> storing an identification of a number of test takers for the test; and
> billing a client based on the number of test takers for the test.

The Examiner asserts that "the concept of billing a client based on the quantity of a product or services provided to the client is old and well known in the art". Even if the Examiner is correct, claim 5 specifically requires that an identification of a number of test takers be stored, and that a client is billed based on the number of test takers taking the test. Neither Papadopoulos nor Thomas discloses or suggests the subject matter recited in claim 5, and claim 5, as well as corresponding claims 27 and 50, patentably distinguish over the references in their own right as well as by virtue of their dependency.

Therefore, the rejection of claims 5, 27, and 50 under 35 U.S.C. § 103(a) has been overcome.

V. 35 U.S.C. § 103, Obviousness: Claims 7, 13, 30, and 36

The Examiner has rejected claims 7, 13, 30, and 36 under 35 U.S.C. § 103(a) as being unpatentable over Papadopoulos, Thomas, and Sugimoto as applied to claims 6 and 29 above, and further in view of Walker. This rejection is respectfully traversed.

Walker is cited with respect to claims 7 and 30 as disclosing billing a test developer for administration of a test to a remotely located user, and with respect to claims 13 and 36 as disclosing implementing a test by a test administration system that is operated by a different entity than the test developer. Claims 7, 13, 30 and 36 depend from and further restrict one of independent claims 6 and 29. Walker does not supply the deficiencies of Papadopoulos, Thomas or Sugimoto as described above, and claims 7, 13, 30 and 36 patentably distinguish over the cited art in their present form, at least by virtue of their dependency.

Therefore, the rejection of claims 7, 13, 30, and 36 under 35 U.S.C. § 103(a) has been overcome.

VI. 35 U.S.C. § 103, Obviousness: Claims 22 and 45

The Examiner has rejected claims 22 and 45 under 35 U.S.C. § 103(a) as being unpatentable over Papadopoulos, Thomas, and Sugimoto as applied to claims 6 and 29 above, and further in view of Hansel, U.S. Patent No. 3,292,276. This rejection is respectfully traversed.

Hansel is cited as disclosing storing of timing data for a test question to update timing data for the user for use in future tests. Claims 22 and 45, however, depend from and further restrict one of independent claims 6 and 29. Hensel does not supply the deficiencies of Papadopoulos, Thomas and Sugimoto as described above, and claims 22 and 45 patentably distinguish over the cited art in their present form, at least by virtue of their dependency.

Therefore, the rejection of claims 22 and 45 under 35 U.S.C. § 103(a) has been overcome.

VII. Conclusion

For at least all the above reasons, claims 1-8 and 11-51 patentably distinguish over the cited art and are allowable in their present form, and this application is now believed to be in condition for allowance. It is, accordingly, respectfully requested that the Examiner so find and issue a Notice of Allowance in due course.

The Examiner is invited to call the undersigned at the below-listed telephone number if in the opinion of the Examiner such a telephone conference would expedite or aid the prosecution and examination of this application.

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Respectfully submitted,

/Gerald H. Glanzman/

Gerald H. Glanzman
Reg. No. 25,035
Yee & Associates, P.C.
P.O. Box 802333
Dallas, TX 75380
(972) 385-8777
Attorney for Applicants